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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
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11 DIGITECH IMAGE TECHNOLOGIES,
12 LLC,

13 Plaintiff,

14 v.

15 MAMIYA DIGITAL IMAGING CO.,
16 LTD.; LEAF IMAGING LTD. D/B/A
17 MAMIYALEAF and MAMIYA
AMERICA CORPORATION,

Defendants.

Case No. 8:12-cv-1675-ODW(MRWx)

**ORDER DENYING LEAF IMAGING
LTD.'S MOTION TO DISMISS [26]**

18 **I. INTRODUCTION**

19 Plaintiff Digitech Image Technologies, LLC brought a patent-infringement
20 Complaint against, among others, Defendant Leaf Imaging Ltd., an Israeli company.
21 Leaf moves to dismiss the Complaint for lack of personal jurisdiction. Leaf contends
22 that it is not subject to personal jurisdiction in California because it conducts no direct
23 sales in California and maintains no offices, employees, agents, or bank accounts in
24 this state. But Leaf does have an established distribution relationship with a United
25 States-based company and a website that specifically lists seven California retail
26 locations at which consumers may purchase Leaf products—all indicating that Leaf
27 contemplated that its products would reach California through the stream of
28 commerce. The Court finds that under Federal Circuit case law, Leaf's contacts with

1 California are sufficient to subject it to personal jurisdiction in this state. The Court
2 accordingly **DENIES** Leaf's Motion to Dismiss.

3 **II. FACTUAL BACKGROUND**

4 Leaf is an Israeli digital-camera company that is incorporated and has its
5 principal place of business in Kfar Saba, Israel. (Kalinski Decl. ¶ 2.) Leaf does not
6 own property, pay taxes, maintain a bank account, employ anyone, or sell directly to
7 consumers in the United States. (*Id.* ¶¶ 3–7.)

8 Leaf sells its products in the United States through Defendant Mamiya America
9 Corporation, a distributor located in New York. (*Id.* ¶ 7–8.) Mamiya America
10 Corporation is an independent entity from Leaf; Leaf does not exercise any control
11 over Mamiya. (*Id.*)

12 Leaf maintains a website that is available worldwide. (Edmonds Decl. ¶ 3,
13 Ex. 1; *see* Kalinski Decl. ¶ 9.) Leaf lists seven California retail locations on its
14 website where consumers can purchase its products. (Edmonds Decl. Ex. 1.) But
15 Leaf does not make sales or accept payments directly through its website. (Kalinski
16 Decl. ¶ 9.) Neither does Leaf specifically direct advertisements or marketing to
17 California residents or design products especially for California. (*Id.* ¶¶ 10–11.)

18 On October 1, 2012, Digitech filed a patent-infringement Complaint against
19 Defendants. Digitech alleges on information and belief that all Defendants, including
20 Leaf, are subject to “specific and/or general personal jurisdiction” in California,
21 particularly due to sales of the allegedly infringing products in California. (Compl.
22 ¶ 4.)

23 On March 7, 2013, Leaf moved to dismiss the Complaint for lack of personal
24 jurisdiction. (ECF No. 26.) Digitech timely opposed on March 18, 2013. (ECF
25 No. 29-1.) That Motion is now before the Court for decision.

26 **III. LEGAL STANDARD**

27 Despite being properly served with process, a defendant may challenge a
28 district court's exercise of personal jurisdiction under Federal Rule of Civil Procedure

12(b)(2). Federal Circuit case law applies to the personal-jurisdiction analysis in cases “intimately involved” with patent law. *Elecs. for Imaging, Inc. v. Coyle*, 340 F.3d 1344, 1348 (Fed. Cir. 2003). Prediscovery, a plaintiff must only establish a prima facie showing of personal jurisdiction over the defendant, and all factual disputes must be resolved in the plaintiff’s favor. *Deprenyl Animal Health, Inc. v. Univ. of Toronto Innovations Found.*, 297 F.3d 1343, 1347 (Fed. Cir. 2002).

The Due Process Clauses of the Fifth and Fourteenth Amendments prohibit the exercise of personal jurisdiction over a nonresident defendant unless that defendant has certain meaningful contacts with the forum state. *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 471 (1985). District courts generally assess whether the defendant would be subject to personal jurisdiction in a court of general jurisdiction in the forum state. Fed. R. Civ. P. 4(k)(1)(A).

IV. DISCUSSION

Leaf moves to dismiss Digitech’s patent-infringement Complaint for lack of personal jurisdiction. Leaf argues that since it has no offices, property, sales agents, employees, or other direct contacts with California, this Court lacks either specific or general jurisdiction over it. Digitech responds only to the specific-jurisdiction issue. Digitech contends that Leaf’s distribution relationship with Mamiya demonstrates that Leaf was aware that its allegedly infringing products would reach California through the stream of commerce, especially in light of Leaf listing seven California retail locations on its website at which its products are sold. The Court considers each party’s arguments in turn.

A. General jurisdiction

A district court may only exercise general jurisdiction over a nonresident defendant when “the defendant has continuous and systematic contacts with the forum state, even if those contacts are not related to the cause of action.” *Elecs. for Imaging*, 340 F.3d at 1349 (citation omitted). But sporadic and insubstantial forum-state

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1 contacts will not suffice for general jurisdiction. *Autogenomics, Inc. v. Oxford*
2 *Gene Tech. Ltd.*, 566 F.3d 1012, 1017 (Fed. Cir. 2009).

3 In its Complaint, Digitech simply alleges on information and belief that Leaf is
4 subject to general jurisdiction. Digitech bases all of its jurisdictional allegations in the
5 Complaint on Leaf's allegedly selling or inducing others to sell its allegedly infringing
6 products in California, having an interactive website available to California residents,
7 and regularly engaging in business in the forum state from which it allegedly derives
8 substantial income. But Digitech does not directly address the general jurisdiction
9 argument in its Opposition.

10 Leaf contends that it is not subject to general jurisdiction in California, because
11 it has no offices, property, employees, bank accounts, or other contacts with
12 California. Neither does Leaf pay taxes in this state or directly sell to California
13 consumers.

14 Considering Leaf's dearth of direct contacts with this state, the Court finds that
15 Leaf is not subject to general jurisdiction in California. If sporadic and insubstantial
16 contacts with the forum state are insufficient to warrant the exercise of general
17 jurisdiction, then it follows that lacking any direct contacts even further erodes any
18 general-jurisdiction foundation. It is also telling that Leaf does not even attempt to
19 argue the issue in its Opposition, relying instead on specific jurisdiction.

20 **B. Specific jurisdiction**

21 Evaluation of specific jurisdiction entails two inquiries: (1) whether a forum
22 state's long-arm statute permits service of process, and (2) whether the assertion of
23 jurisdiction would comport with due process. *Elecs. for Imaging*, 340 F.3d at 1349.
24 Because California's long-arm statute is coextensive with federal due-process
25 requirements, this Court need only focus only on the latter analysis. *Schwarzenegger*
26 *v. Fred Martin Motor Co.*, 374 F.3d 797, 800–01 (9th Cir. 2004); *see also* Cal. Civ.
27 Proc. Code § 410.10.

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1 The Federal Circuit employs a three-prong test to assess whether a court may
 2 exercise specific jurisdiction: “(1) whether the defendant purposefully directed
 3 activities at residents of the forum; (2) whether the claim arises out of or relates to
 4 those activities; and (3) whether assertion of personal jurisdiction is reasonable and
 5 fair.” *Nuance Commc’ns, Inc. v. Abbyy Software House*, 626 F.3d 1222, 1231 (Fed.
 6 Cir. 2010).

7 *1. Purposeful direction*

8 The United States Supreme Court has held that the “forum State does not
 9 exceed its powers under the Due Process Clause if it asserts personal jurisdiction over
 10 a corporation that delivers its products into the stream of commerce with the
 11 expectation that they will be purchased by consumers in the forum State.” *World-*
 12 *Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297–98 (1980).

13 In *Asahi Metal Industries Co. v. Superior Court of California, Solano County*,
 14 the Court split on whether awareness by the defendant that a product it places into the
 15 stream of commerce will reach the forum state suffices for purposeful direction.
 16 480 U.S. 102 (1987) (plurality opinion); *compare id.* at 112 (requiring some additional
 17 conduct by the defendant beyond mere awareness that the product will reach the
 18 forum state), *with id.* at 117 (Brennan, J., concurring in judgment) (“As long as a
 19 participant in [the stream of commerce] is aware that the final product is being
 20 marketed in the forum State, the possibility of a lawsuit there cannot come as a
 21 surprise.”).

22 The Supreme Court attempted to jettison the foreseeability test in *J. McIntyre*
 23 *Machinery, Ltd. v. Nicastro*, 131 S. Ct. 2780 (2011). But since the Court split again,
 24 the Federal Circuit interpreted that personal-jurisdiction law remains the same post-
 25 *McIntyre*, that is, the stream-of-commerce test remains intact. *AFTG-TG, LLC v.*
 26 *Nuvoton Tech. Corp.*, 689 F.3d 1358, 1363 (Fed. Cir. 2012).

27 Digitech argues that Leaf is fully aware that its allegedly infringing products
 28 will and do reach California through the stream of commerce due to Leaf’s established

1 distribution relationship with Mamiya. Digitech adduced screenshots from Leaf's
2 website depicting seven California retail locations at which consumers could purchase
3 Leaf products. Digitech also verified that Leaf products are available for sale from at
4 least one of the forum-state retailers.

5 Leaf responds that, not only does it completely lack any direct contacts with
6 California, but it only distributes its products to Mamiya in New York and has no
7 downstream control over where the products are ultimately marketed and sold. Leaf
8 further contends that its website is generally available to anyone with Internet access,
9 and Leaf does not conduct sales or accept payments through the website.

10 Digitech correctly analogizes to the Federal Circuit's opinion in *Beverly Hills*
11 *Fan Co. v. Royal Sovereign Corp.*, 21 F.3d 1558 (Fed. Cir. 1994). In that case, the
12 plaintiff brought a patent-infringement action against a Chinese manufacturer of
13 ceiling fans. *Id.* at 1560. The manufacturer did sell directly to anyone in the forum
14 state but rather used a United States-based distributor. *Id.* The manufacturer also had
15 no service-of-process agent, employees, or assets in the forum state. *Id.* The district
16 court dismissed the manufacturer for lack of personal jurisdiction, but the Federal
17 Circuit reversed. *Id.* at 1572. The court held, "The allegations are that defendants
18 purposefully shipped the accused fan into Virginia through an established distribution
19 channel. The cause of action for patent infringement is alleged to arise out of these
20 activities. No more is usually required to establish specific jurisdiction." *Id.* at 1565.

21 The facts of this case bear a striking resemblance to those in *Beverly Hills Fan*.
22 Like the Chinese manufacturer in that case, Leaf has no assets, employees, agents, or
23 other direct contacts with the forum state. But Leaf does have its established
24 distribution relationship with Mamiya. Leaf also specifically lists on its website seven
25 California retail locations at which consumers may purchase its products—all of
26 which provide compelling evidence that Leaf contemplated that its products would
27 foreseeably be carried into California through the stream of commerce. Digitech has

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1 accordingly carried its burden of establishing a prima facie showing of specific
2 jurisdiction through its Complaint and declaration supporting its Opposition.

3 Leaf's reliance on *J. McIntyre Machinery* at this stage of the case is unavailing
4 for at least three reasons. First, the Supreme Court split on which stream-of-
5 commerce formulation applied to the facts in that case. Second, the plurality opinion
6 emphasized that the British manufacturer had only delivered four of its machines to
7 the forum state and that the facts only showed an intent to serve the general U.S.
8 market as opposed to the forum state specifically. 131 S. Ct. at 2790. In contrast,
9 Digitech has made at least a prima facie showing of an established distribution
10 channel between Leaf, Mamiya, and ultimately California. Leaf's own website
11 envisages that California residents will purchase Leaf products in this state. Finally,
12 the Federal Circuit specifically reviewed the effect of *J. McIntyre* and determined that
13 *Beverly Hills Fan* still controls the personal-jurisdiction inquiry. *AFTG-TG, LLC*, 689
14 F.3d at 1363–64.

15 2. *Claims arise out of forum-state activities*

16 Since Digitech must only establish a prima facie showing of personal
17 jurisdiction at this motion-to-dismiss stage, the Court must accept as true its allegation
18 that Leaf sold allegedly infringing products in California. Leaf's alleged infringement
19 then arises out of its forum-state activities, namely, the sale of those products.

20 The Court therefore finds that Leaf is subject to specific jurisdiction in
21 California.

22 3. *Reasonableness of the exercise of jurisdiction*

23 Even if a defendant is otherwise subject to personal jurisdiction in the forum
24 state, the exercise of personal jurisdiction still must not offend “traditional notions of
25 fair play and substantial justice.” *Int’l Shoe Co. v. State of Wash., Office of Unemp’t*
26 *Comp. & Placement*, 326 U.S. 310, 316 (1945). The defendant bears the hefty burden
27 of establishing a “compelling case” demonstrating that the exercise of personal
28 jurisdiction would be unreasonable. *Burger King Corp.*, 471 U.S. at 477.

1 The Supreme Court has expounded several factors a district court must consider
2 in evaluating the reasonableness of the exercise of jurisdiction: (1) the burden on the
3 defendant, (2) the forum state's interests, (3) the plaintiff's interest in obtaining relief;
4 (4) the interstate judicial system's interest in obtaining the most efficient resolution of
5 controversies; and (5) the several states' shared interest in furthering fundamental
6 substantive social policies. *Asahi*, 480 U.S. at 113.

7 Leaf argues that, as an Israeli company, it would be "inconvenienced" by
8 having to litigate in California in a foreign legal system. Digitech disagrees, arguing
9 that Leaf failed to establish the requisite compelling case of unreasonableness.

10 The Court agrees with Digitech. Leaf's "inconvenience" in having to litigate in
11 California hardly suffices to divest this Court of personal jurisdiction over Leaf.
12 Undoubtedly every defendant, foreign or domestic, experiences some degree of
13 displeasure in having to defend itself. But of necessity, that reality does not militate
14 against an exercise of jurisdiction.

15 The other *Asahi* factors establish a compelling case *for* the exercise of personal
16 jurisdiction. The federal-court system has a strong interest in resolving Digitech's
17 myriad cases in one unified forum—California. Digitech is also a "citizen" of
18 California in that it is formed under California law and has its principal place of
19 business here. Digitech also has a strong interest in litigating in its home state, further
20 undergirding the conclusion that this Court may reasonably exercise specific
21 jurisdiction over Leaf.

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1 **V. CONCLUSION**

2 For the reasons discussed above, Leaf Imaging Ltd.'s Motion to Dismiss is
3 **DENIED.**

4 **IT IS SO ORDERED.**

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6 April 8, 2013

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10 **OTIS D. WRIGHT, II**
11 **UNITED STATES DISTRICT JUDGE**
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